



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No. : 09/851,029                      Docket No. : 11032/3039  
Inventor : Frank ADDANTE                      Confirmation No. : 2494  
Filed : May 7, 2001  
Examiner : Tri V. NGUYEN                      Art Unit : 3622

For : METHOD AND APPARATUS FOR TRANSACTION TRACKING OVER A  
COMPUTER NETWORK

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**Attention: Board of Patent Appeals and Interferences**

**APPEAL BRIEF UNDER 37 C.F.R. §41.37**

Sir:

Appellants submit this Appeal Brief in the above-referenced application. A Notice of Appeal was filed on November 30, 2006. A petition for a five-month extension of time is submitted herewith, after which the date for filing this Brief is July 2, 2007, due to June 30, 2007 falling on a Saturday. All fees associated with this appeal are authorized to be charged to the deposit account of Kenyon & Kenyon LLP, Deposit Account No. 11-0600.

### **REAL PARTY IN INTEREST**

DoubleClick, Inc. is the real party in interest for all issues related to this application by virtue of assignments filed with the U.S. Patent Office at reel 012228, frame 0954.

### **RELATED APPEALS OR INTERFERENCES**

There are no other appeals, interferences, or judicial proceedings known to Appellants, Appellants' legal representative, or assignee which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

### **STATUS OF CLAIMS**

Claims 1-88 stand finally rejected and are the subject of this appeal.

### **STATUS OF AMENDMENTS**

None of the claims are amended after the May 30, 2006 final Office Action.

### **SUMMARY OF CLAIMED SUBJECT MATTER**

The subject matter defined in the independent claims on appeal (claims 1, 60 and 78) is directed generally to tracking transactions over a computer network. More specifically, claims 1 and 60 relate to tracking transactions by providing information to and from a user node, a transaction node, and a monitor node. Claim 78 relates to compiling transaction information by storing a cookie at a user node, which then provides the cookie to an ad server during a transaction. FIGS. 1 and 2 illustrate embodiments of the invention recited in the claims.

Claims 1 and 60 recite a computer network and method for tracking transactions, comprising providing a request to perform a transaction (220) from a user node (100) to a transaction node (102); performing the transaction; providing a transaction confirmation including a command to record the transaction (222) from the transaction node (102) to the user

node (100); providing a request to record the transaction in response to the command to record the transaction (224) from the user node to a monitor node (106); and recording the transaction (226) at the monitor node. Exemplary embodiments of the features recited in claims 1 and 60 are described in the specification at least at page 3, lines 3-14; page 3, line 34 to page 4, line 11; page 11, lines 10-25; and page 14, lines 5-26.

Claim 78 recites a method of compiling transaction information, comprising formatting a cookie (212) at an ad server (106), the cookie including information related to a selection of an advertisement at a content site (FIG. 3A); storing (214) a cookie at a user node (100) of a user who made the selection; and providing the cookie from the user node to the ad server whenever the user makes a transaction at a sale site associated with the advertisement (224). Exemplary embodiments of the features recited in claim 78 are described in the specification at least at page 3, lines 15-33; page 3, line 34 to page 4, line 11; page 9, line 7 to page 10, line 24; and page 11, lines 3-25.

### **GROUND S OF REJECTION TO BE REVIEWED**

The following issues are the subject of the present appeal:

- whether claims 1-12, 14, 16, 18-30, 33-52, 55-62, 64-78, 80-83 and 85-87 are anticipated under 35 U.S.C. §102(b) by International Publication No. WO 98/57285 to Messer (“Messer”);
- whether claims 13, 15, 17, 31, 32, 53, 54, 63, 79 and 84 are unpatentable under 35 U.S.C. §103(a) over Messer in view of U.S. Patent No. 5,933,811 to Angles et al. (“Angles”); and
- whether claim 88 is unpatentable under 35 U.S.C. §103(a) over Messer in view of U.S. Patent No. 5,796,952 to Davis et al. (“Davis”).

## ARGUMENT

The Office Action of May 30, 2006 (“Final Rejection”) fails to demonstrate that Messer discloses at least the following features:

- a user node to provide a request to perform a transaction and a request to record the transaction as recited in claim 1;
- a transaction node...to provide a transaction confirmation to the user node, the transaction confirmation including a command to record the transaction as recited in claims 1 and 60;
- a monitor node to receive the request to record the transaction provided by the user node in response to the command to record the transaction as recited in claims 1 and 60;
- formatting a cookie at an ad server, the cookie including information related to a selection of an advertisement at a content control site as recited in claim 78; and
- providing a cookie from a user node to an ad server whenever the user makes a transaction at a sale site associated with the advertisement as recited in claim 78.

Messer fails to disclose any of these features, and thus cannot anticipate the claims.

The Final Rejection further fails to demonstrate that Messer in view of Angles or Davis teaches or suggests each and every feature of the claims rejected under §103. Details of these arguments are presented below.

### A. Claims 1-12, 14, 16, 18-30, 33-52, 55-62, and 64-77 Are Not Anticipated by Messer (“Messer”).

Independent claim 1 recites, in relevant part:

a user node to provide a request to perform a transaction **and a request to record the transaction;**

a transaction node...to provide a transaction confirmation to the user node, the transaction confirmation **including a command to record the transaction;**  
and

a monitor node to receive the request to record the transaction **provided by the user node in response to the command to record the transaction.**

Independent claim 60 recites similar features. In the Response filed March 16, 2006, Applicants explained that Messer merely describes a banner advertisement that allows a user to view a merchant's website. If the user makes a purchase at the merchant site, the merchant site records a transaction (FIG. 7, 970) and forwards the transaction details to a clearinghouse for further processing (FIG. 7, 980). Applicants further explained that Messer does not describe a request from a user node to record the transaction, or a transaction confirmation including a command to record the transaction as required by the claims.

In response, the Examiner asserts that Messer discloses "a user having the option of purchasing the product and the feature of tracking the transaction and sales particulars including commissions and payments" and "the use of cookies to track the transaction at the merchant site and extracting the information to a log file at the clearinghouse site" at column 8, line 67 to column 9, line 11.<sup>1</sup> Final Rejection, p. 17. However, this portion of Messer merely indicates that, when a user makes a purchase, the merchant site can track the purchase, and a clearinghouse server can calculate various data:

web page, block 780. In accordance therewith, information  
65 about the product described in the banner ad is now displayed to the USER including the procedure for purchasing the product, block 790.

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<sup>1</sup> The "Response to Arguments" section of the Final Rejection makes several references to column and line numbers which do not correspond to WO 98/57385. Messer is published in single-column, 36 line-per-page format, and the Examiner has provided no other reference by Messer for which the citations are appropriate. Applicants presume that the Examiner has used citations to the corresponding U.S. Patent No. 5,901,740 ("Messer '740"), and have responded accordingly.

The USER is confronted with the option of purchasing the product at test 800. If the USER determines not to make the purchase, logic branches to block 810, and the server places a cookie onto the USER. This cookie enables tracking of a later purchase, test 815 and block 817. If, however, the USER makes the purchase (“Yes” to test 800), information relating to the purchase and the USER are transferred back to the Clearinghouse server, block 820. Sales particulars including all co-promotion and commission payment are then calculated in accordance with stored protocols, block 850.

Messer ’740, col. 8, line 64 – col. 9, line 11; Messer, p. 13, line 34 – p. 14, line 8.

However, this passage is simply unrelated to the features recited in the claims. The “sales particulars” are calculated by the clearinghouse server after receiving information from the merchant site (*see* FIG. 6B). However, there is no suggestion that any information is recorded based on a specific request **from a user node** to record the transaction as required by the claims.

Similarly, the cookie described in Messer is only used by the merchant site to track purchases. *See, e.g.*, p. 14, lines 3-4 and 24-27; p. 15, lines 3-4. Messer does not suggest that the cookie is a **transaction confirmation**, or that it includes a **command to record the transaction**. Thus, no transaction confirmation including a command to record the transaction is provided to the user node as required by the claims. For at least this reason, Messer does not anticipate claims 1 and 60 and all claims dependent thereon, and the rejection should be reversed.

The Examiner further asserts that Messer discloses receiving a request to record a transaction provided by a user node in response to the command to record the transaction because “Messer discloses the feature of transferring the user to the clearinghouse for finalization of the sales particulars” at column 4, line 60 to column 5, line 4. Final Rejection, p. 18. This is incorrect. Even if the clearinghouse is read as the recited monitor node, the transfer of a user from the merchant site to the clearinghouse fails to anticipate the claim. The clearinghouse does not receive a request to record a transaction **from a user node**, and specifically not **in response to a command to record the transaction provided to the user node**. In fact, this is illustrated by the portion of Messer cited by the Examiner:

60 The second site of interest is the Merchant's server. At the Merchant's server, the specific goods are made available for purchase. This involves the use of secured transactions, via a credit card or other payment vehicle to order the goods with delivery by any one of the available delivery services  
65 (land or air). To implement the present invention, programming is installed on the Merchant's server that is capable of tracking the number of visits by USERS that are precipitated

by links with banner ads. Alternatively, the USER may be transferred back to the Clearinghouse for completion of the actual purchase transaction.

The final server in this trilogy is the Clearinghouse server.

Messer '740, col. 4, line 60 – col. 5, line 4; Messer, p. 7, lines 16-25. The clearinghouse merely completes a purchase transaction that was started at the merchant site. There is no evidence in Messer or the Final Rejection that transferring a user from the merchant site to the clearinghouse results in a request to record a transaction **from the user node** as required by the claims. For at least this reason, Messer does not anticipate claims 1 and 60 and all claims dependent thereon, and the rejection should be reversed.

B. Messer Does Not Anticipate Claims 78, 80-83 and 85-87.

Independent claim 78 recites, in relevant part,

formatting a cookie **at an ad server**, the cookie including information related to a selection of an advertisement at a content site; and

providing the cookie from the user node **to the ad server** whenever the user makes a transaction at a sale site associated with the advertisement.

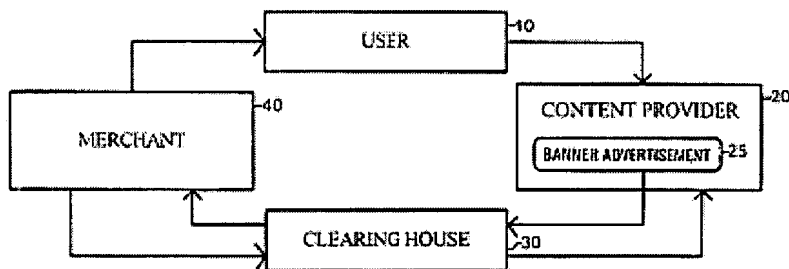
The Final Rejection asserts that these features are described at page 13, line 24 to page 14, line 8 of Messer. In the March 16, 2006 Response, Applicants explained that Messer only describes a merchant site placing a cookie on a user site to enable purchase tracking. Applicants further explained that the merchant site of Messer does not serve ads and thus cannot be considered an ad server as required by the claims.

In response, the Examiner argues that Messer discloses “the placement and updating of [a] cookie upon the selection of an ad banner to allow for the allocation of commissions” at column 5, lines 17-32:

In operation and referring to FIG. 1, the USER, block begins the process by visiting a Site Owner block 20, such as one of the main web pages that include articles on current events, business news, sports, personal finance, etc. On this web page, a banner ad (text link or icon) block 25, is displayed to the USER promoting for example sneakers at an attractively discounted price. This banner ad is linked, first in a seamless fashion to the Clearinghouse, block 30. The link then continues directly to the Merchant block 40. During the linking process, the USER has an identifier query string appended to the HTTP entry, and possibly a “cookie” placed on their system. These act as a marker to permit tracking of the USER by the Merchant and Clearinghouse, determine if and when the USER was involved in a purchase, and how to allocate the purchase commission to the Site Owner.

Messer '740, col. 5, lines 17-32; Messer, p. 8, lines 3-14; Final Rejection, p. 18.

However, the Examiner’s analysis fails to address Applicants’ argument. The Examiner merely cites a process by which a user is transferred from a content provider 20 to a clearinghouse 30 and merchant 40 after selecting a banner advertisement 25, as shown in FIG. 1 of Messer:



The cookie is placed on the user’s system by the merchant site to track purchases. There is no suggestion of an ad server in Messer, much less of a cookie formatted by an ad server, or a user node providing a cookie to an ad server as required by the present claims. In fact, Messer



fails to describe an ad server at all, and therefore cannot anticipate the claims. For at least this reason, the rejection of claim 78 and all claims dependent thereon should be reversed.

C. Claims 13, 15, 17, 31, 32, 53, 54, 63, 79, 84 and 88 Are Not Obvious.


Claims 13, 15, 17, 31, 32, 53, 54, 63, 79, 84 and 88 depend from the independent claims discussed above. Angles and Davis fail to remedy the defects of Messer identified above with respect to the independent claims, and therefore the combinations of references cited by the Examiner fail to teach or suggest all the elements of the claims. Thus the claims cannot be obvious, and the rejections should be reversed.

**CONCLUSION**

Appellants respectfully request reversal of the rejections of claims 1-88. These claims are allowable over the cited art.

Respectfully submitted,

Date: July 2, 2007

  
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## **CLAIMS APPENDIX**

1. A computer network comprising:
  - a user node to provide a request to perform a transaction and a request to record the transaction;
  - a transaction node to receive the request to perform the transaction, to perform the transaction in response, and to provide a transaction confirmation to the user node, the transaction confirmation including a command to record the transaction; and
  - a monitor node to receive the request to record the transaction provided by the user node in response to the command to record the transaction, and to record the transaction in response to the request to record the transaction.
2. The computer network of claim 1 wherein the user node includes a web client, the web client being used to provide the request to perform the transaction and the request to record the transaction.
3. The computer network of claim 2 wherein the web client is a web browser.
4. The network of claim 1 wherein the transaction includes an inquiry.
5. The computer network of claim 1 wherein the monitor node includes a sale log program, the sale log program being used to record the transaction between the user node and the transaction node.
6. The computer network of claim 5 wherein the sale log program includes a CGI script.
7. The computer network of claim 1 wherein the transaction confirmation is a confirmation web page.
8. The computer network of claim 7 wherein the command to record the transaction is an HTML tag included in the confirmation web page.

9. The computer network of claim 1 further comprising a content node providing a content to the user node, wherein the content has a space for an advertisement, and wherein the user node receives the content and the advertisement.
10. The computer network of claim 9 wherein the advertisement includes a graphics file.
11. The computer network of claim 10 wherein the graphics file includes an ad banner.
12. The computer network of claim 9 wherein the advertisement includes a multimedia file.
13. The computer network of claim 12 wherein the multimedia file includes a java script.
14. The computer network of claim 9 wherein the content node includes the advertisement, and wherein the content node provides the advertisement to the user node.
15. The computer network of claim 9 further comprising an advertisement data base, wherein the advertisement database provides the advertisement to the user node.
16. The computer network of claim 9 further comprising an advertisement database, wherein the advertisement database provides the advertisement to the content node, and wherein the content node provides the advertisement to the user node.
17. The computer network of claim 15 wherein the user node provides a first request for the advertisement to the monitor node, the monitor node provides a second request for the advertisement to the advertisement database in response to the first request, the advertisement database provides the advertisement to the monitor node, and the monitor node provides the advertisement to the user node.
18. The computer network of claim 9 wherein the transaction node is associated with the advertisement, and the user node provides to the monitor node a request for redirection to the transaction node.

19. The computer network of claim 18 wherein the request for redirection is provided when a user at the user node makes a selection of the advertisement.
20. The computer network of claim 19 wherein the user makes the selection by clicking on the advertisement.
21. The computer network of claim 18 wherein the request for redirection includes a URL.
22. The computer network of claim 18 wherein the request for redirection includes an IP address.
23. The computer network of claim 19 wherein the monitor node monitors the selection made by the user.
24. The computer network of claim 20 wherein the monitor node includes a sale track program, and the monitor node uses the sale track program to monitor the selection made by the user.
25. The computer network of claim 24 wherein the sale track program includes a CGI script.
26. The computer network of claim 19 wherein the monitor node compiles information related to the selection made by the user.
27. The computer network of claim 26 wherein the information related to the selection made by the user is compiled into a block of data.
28. The computer network of claim 27 wherein the block of data includes a cookie.

29. The computer network of claim 28 wherein the cookie includes information related to the content node.
30. The computer network of claim 28 wherein the cookie includes information related to the advertisement.
31. The computer network of claim 28 wherein the cookie includes information related to a cookie setting date.
32. The computer network of claim 28 wherein the cookie includes information related to a cookie setting time.
33. The computer network of claim 28 wherein the cookie includes information related to a campaign during which the advertisement is provided.
34. The computer network of claim 28 wherein the monitor node provides the cookie to the user node to be stored.
35. The computer network of claim 34 wherein the cookie is stored at a hard drive of the user node.
36. The computer network of claim 18 wherein the monitor node redirects the user node to the transaction node by providing a URL of the transaction node.
37. The computer network of claim 18 wherein the monitor node redirects the user node to the transaction node by providing an IP address of the transaction node.
38. The computer network of claim 18 wherein the user node provides a request to the transaction node to receive a transaction site page upon redirection by the monitor node.

39. The computer network of claim 38 wherein the transaction node provides the transaction site page to the user node in response to the request to receive the transaction site page.
40. The computer network of claim 27 wherein the user node provides a request for a GIF file from the monitor node.
41. The computer network of claim 40 wherein the GIF file is an invisible GIF file, which has 1.times.1 dimension.
42. The computer network of claim 27 wherein the user node provides a query string to the monitor node.
43. The computer network of claim 42 wherein the query string includes information related to the transaction node.
44. The computer network of claim 42 wherein the query string includes information related to a transaction type.
45. The computer network of claim 42 wherein the query string includes information related to a transaction amount.
46. The computer network of claim 42 wherein the query string includes information related to a transacted product.
47. The computer network of claim 42 wherein the user node provides the block of data to the monitor node.
48. The computer network of claim 47 wherein the monitor node records the transaction by extracting information from the block of data and the query string.

49. The computer network of claim 48 wherein the monitor node records the transaction into a transaction database.
50. The computer network of claim 49 wherein the recorded transaction in the transaction database includes information related to a current time.
51. The computer network of claim 49 wherein the recorded transaction in the transaction database includes information related to the content node.
52. The computer network of claim 49 wherein the recorded transaction in the transaction database includes information related to the advertisement.
53. The computer network of claim 49 wherein the recorded transaction in the transaction database includes information related to a cookie setting date.
54. The computer network of claim 49 wherein the recorded transaction in the transaction database includes information related to a cookie setting time.
55. The computer network of claim 49 wherein the recorded transaction in the transaction database includes information related to the transaction node.
56. The computer network of claim 49 wherein the recorded transaction in the transaction database includes information related to a transaction type.
57. The computer network of claim 49 wherein the recorded transaction in the transaction database includes information related to a transaction amount.
58. The computer network of claim 49 wherein the recorded transaction in the transaction database includes information related to a transacted product.

59. The computer network of claim 49 wherein the monitor node provides the recorded transaction to the transaction node.

60. A method of tracking transactions over a computer network comprising:  
providing a request to perform a transaction from a user node to a transaction node;  
performing the transaction at the transaction node;  
providing a transaction confirmation, including a command to record the transaction, from the transaction node to the user node;  
providing a request to record the transaction in response to the command to record the transaction, from the user node to a monitor node; and  
recording the transaction at the monitor node.

61. The method of tracking transactions of claim 60 further comprising: providing content having a space for an advertisement from a content node to the user node; and providing the advertisement to the user node.

62. The method of tracking a transaction of claim 61 further comprising: providing the advertisement to the user node from the content node.

63. The method of tracking a transaction of claim 61 further comprising: providing the advertisement to the user node from an advertisement database.

64. The method of tracking a transaction of claim 61 further comprising: making a selection of the advertisement at the user node.

65. The method of tracking a transaction of claim 64 wherein making the selection of the advertisement includes clicking on the advertisement by a user at the user node.

66. The method of tracking a transaction of claim 64 further comprising: requesting a redirection from the user node to the monitor node.



67. The method of tracking a transaction of claim 64 further comprising: compiling information related to the selection of the advertisement at the monitor node.
68. The method of tracking a transaction of claim 67 wherein compiling information related to the selection includes formatting a cookie using the information related to the selection.
69. The method of tracking a transaction of claim 68 wherein formatting a cookie includes recording a cookie setting date to indicate a date on which the cookie is formatted.
70. The method of tracking a transaction of claim 68 wherein formatting a cookie includes recording a cookie setting time to indicate a time at which the cookie is formatted.
71. The method of tracking a transaction of claim 68 wherein formatting a cookie includes recording information related to the content node.
72. The method of tracking a transaction of claim 68 wherein formatting a cookie includes recording information related to the advertisement.
73. The method of tracking a transaction of claim 68 further comprising: providing the cookie from the monitor node to the user node.
74. The method of tracking a transaction of claim 66 further comprising: redirecting the user node to the transaction site.
75. The method of tracking a transaction of claim 73 further comprising: sending the cookie from the user node to the monitor node.
76. The method of tracking a transaction of claim 73 further comprising: sending a query string from the user node to the monitor node.

77. The method of tracking a transaction of claim 60 further comprising: reporting the recorded transaction to the transaction node.
78. A method of compiling transaction information comprising:  
formatting a cookie at an ad server, the cookie including information related to a selection of an advertisement at a content site;  
storing a cookie at a user node of a user who made the selection; and  
providing the cookie from the user node to the ad server whenever the user makes a transaction at a sale site associated with the advertisement.
79. The method of compiling transaction information of claim 78 wherein the cookie further includes information related to a time at which the selection of the advertisement has been made.
80. The method of compiling transaction information of claim 78 further comprising providing a query string from the user node to the ad server, wherein the query string includes information related to the transaction made at the sale site.
81. The method of compiling transaction information of claim 80 wherein the information related to the transaction includes an identification of a purchased product.
82. The method of compiling transaction information of claim 81 wherein the information related to the transaction includes a purchase price of the purchased product.
83. The method of compiling transaction information of claim 80 further comprising recording at least a portion of the information related to the selection of the advertisement and at least a portion of the information related to the transaction into a data structure for the transaction information in the transaction database.
84. The method of compiling transaction information of claim 83 wherein the data structure for the transaction information includes a time of the selection of the advertisement and a time of

the transaction, and the method further includes comparing the time of the selection with the time of the transaction to assess time elapsed between the selection and the transaction.

85. The method of compiling transaction information of claim 83 wherein the data structure for the transaction information includes information related to the content site, and the method further includes crediting the content site with the transaction.

86. The method of compiling transaction information of claim 83 wherein the data structure for the transaction information includes information related to the advertisement, and the method further includes assessing effectiveness of the advertisement by counting a number of transactions related to the advertisement.

87. The method of compiling transaction information of claim 83 wherein the data structure for the transaction information includes information related to a campaign during which the advertisement is provided, and the method further includes assessing effectiveness of the campaign by counting a number of transactions related to the campaign.

88. The method of compiling transaction information of claim 83 wherein the data structure for the transaction information includes information related to an amount of time taken to make the transaction, and the method further includes assessing customer serving capabilities of the sale site by analyzing the amount of time taken to make the transaction.

## **EVIDENCE APPENDIX**

No evidence under 37 C.F.R. §§ 1.130, 1.131, or 1.132 was submitted in this application.

### **RELATED APPEALS APPENDIX**

There are no other appeals, interferences, or judicial proceedings known to Appellants, Appellants' legal representative, or assignee which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.